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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,649	12/30/2003	Oz Cabiri	A-9151.COM/bh	5753
20741	7590	10/26/2005	EXAMINER	
HOFFMAN WASSON & GITLER, P.C. CRYSTAL CENTER 2, SUITE 522 2461 SOUTH CLARK STREET ARLINGTON, VA 22202-3843			FLANAGAN, BEVERLY MEINDL	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/747,649	<b>Applicant(s)</b> CABIRI ET AL.	
	<b>Examiner</b> Beverly M. Flanagan	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 14-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
 BEVERLY M. FLANAGAN  
 PRIMARY EXAMINER

#### Attachment(s)

- |                                                                                                                                                       |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/05</u> <u>3/05</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statements filed February 4, 2005 and May 23, 2005 have been made of record and the references cited therein have been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said shafts" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-6 and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Takada (U.S. Patent No. 6,537,206).

**In regard to claims 1-6**, Takada teaches a self-propelled colonoscope 1 comprised of a belt driving unit 5 and an insertion tube 9 having a distal section 11, a bending section 13 and a flexible section 15 (see Figure 1). A plurality of endless belts 17 are longitudinally arranged on a surface of the flexible section 15 and rest in guide hooks 39 on the colonoscope 1 (see Figures 1, 3 and 5). The outer surfaces of the endless belts 17 supported by guide hooks 39 are exposed to the outside of the guide hook 39 so that the endless belts can maintain a sufficient contact area with the inner wall of the colon and even when the flexible section 15 is severely bent, the endless belts 17 will not come off of the guide hooks 39 (see col. 3, lines 65-67 and col. 4, lines 1-5). Each of the endless belts 17 is made of a flexible and strong material, so that they may deform in conformance with a shape of a gastrointestinal tract (see col. 4, lines 5-6). A drive roller 43 comprised of a pulley 43b wound by the endless belt 17 and a bevel gear 43a as well as another bevel gear 50 engaged with bevel gear 43a provide actuation for the endless belt 17 (see col. 5, lines 5-20). **In regard to claims 9-11**, the

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colonoscope 1 is provided with an image receiving window 19, a suction and forceps opening 23, an air/water nozzle 25 and an image pickup device, such as a CCD (see col. 3, lines 12-19).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada (U.S. Patent No. 6,537,206) in view of Takada (U.S. Patent No. 6,315,713).

**In regard to claims 12 and 13**, Takada '206 is silent as to a sheath or protective funnel used with the colonoscope 1. However, Takada '713 discloses a propellant support apparatus to support a self-propelled colonoscope comprised of an anal pipe 1 having a funnel on its outer end, where the pipe 1 acts as a removable sheath for the colonoscope 1. Takada '713 thus demonstrate that removable support apparatuses having a funnel for aiding in the insertion of an endoscope are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to utilize the anal pipe 1 of Takada '713 with the colonoscope 1 of Takada '206 to aid in its insertion.

***Allowable Subject Matter***

Claims 7, 8 and 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should note the following prior art references disclosing propulsion devices for an endoscope: Kim et al., U.S. Patent No. 6,648,814; Yokoi et al., U.S. Patent Application Publication No. 2003/0181788; Kim et al., U.S. Patent No. 6,824,510 and Grundl et al., U.S. Patent No. 5,586,968.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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